

2:15CR15

I received a copy of the denial of my motion for Compassionate Release on July 22. There was a delay because the public defender's office mailed a copy of someone else's opinion and had to mail the correct one a week later when I advised them of their mistake. 4 days have now passed since I received the opinion and order. I have no knowledge of the filing requirements but I would like to request reconsideration.

I would like to address several points the government alleged including that I have no medical records to support my claim of COPD and emphysema. I included with my original pro-se motion and will enclose again medical documentation that is in my BOP medical file. These documents were sent after I signed a release in March of 2017 allowing the hospital to release them to the BOP. The records dated 5-14-2013 include a CT scan which shows "mild centrilobular emphysema in the lung apices" and "mild changes to chronic obstructive pulmonary disease" when compared with a scan taken 8-27-11. I have also included a copy of a Wright Peak Flow test taken 5-8-2019

which measures lung capacity. The test shows my lungs operate between 50% and 60% capacity for a normal adult male. The government also argued that my underlying conduct, extensive criminal record, my recidivism risk, and numerous infractions while incarcerated made me a poor candidate for early release.

I find the governments arguments appalling as I have found most of their actions after I accepted a plea bargain. They accuse me of lying and fabricating when in fact all the accusations they make are gross exaggerations. I have never claimed to be innocent and still don't however the accusations made in the PSI are ridiculous. I was so appalled by them at the time, and by my lawyers claims that nothing could be done about them, that I dismissed counsel and attempted to change my plea to Not Guilty while never claiming I was innocent. If I had had better representation I would have disputed the 52kg that was alleged. I still do not understand how an entire DEA investigation came to the conclusion that I was

not a major player in the conspiracy and that I only entered the investigation at the end. That was what I was told by my attorney and it fits with the facts. I did not order or sale A-PVP during 2013. In February 2014 I did order 500grams which I split with Mr. Greear because we shared the cost of it. Between March and September 2014 I ordered several more times in various amounts as low as 100grams up to 1Kg on one occasion. I thought the calculated weight of 2.7 Kg in the plea bargain was extremely close but looking back 3.5 Kg is a more accurate representation. For the PSI to claim that I received 52 Kg during 2013 and the DEA wasn't aware of it is ridiculous. That is 1000grams a week in addition to the drugs my co-conspirators were charged with. That is millions of dollars worth of drugs. I lost everything because of my addiction to say I had millions of dollars worth is preposterous. My co-defendant claims he told the probation office I bought drugs off him once

a week for a year and they twisted his words into that. I do not know the truth about that but I do know it is so far from the truth it is ludicrous.

I won't say any more about this because the amount I accepted responsibility for in the plea bargain is still a very serious offense and this was the weight his honor sentenced me at in addition to the enhancement for importation which I admit to and an enhancement for a leadership role which I continue to deny. Considering the allegations and the lack of objection to it by my counsel I found the sentence fair and I would like to once again thank his honor for that.

As to my "extensive" criminal history the only convictions in my life took place during the 9 months I have admitted to heavily using A-PVP. These include the theft charge, possession of 2 grams marijuana in July 2014, and in August 2014 possession of 1 suboxone pill. I was also charged with possession of 1 oxycodone pill for which I had a prescription and the charge was dropped

I think the court will agree that I have a very limited criminal history and it has been overstated. I was granted a downward departure at sentencing due to this.

As to my risk of recidivism the BOP rates my risk as low using the PATTERN scoring tool. I lived the first 38 years of my life crime free and there is no reason to think I will not live the rest of my life the same way.

As to my "numerous infractions while incarcerated" I have had 3 infractions the first one 40 days after entering BOP custody. The second was a very minor infraction that does not even come with a loss of good days as punishment. The 3rd incident happened nearly a year ago and I do dispute it as discussed before. So, I have had 1 incident in 3 years and I have medical reasons for that infraction. My other 2 infractions happened between 3 and 3½ years ago.

The snapshot of my life as presented to this court is atrocious. However that is what it is a snapshot of the worst time of my life. I would like to share some more of my life. I was very active in the community growing up. I coached youth basketball, organized parades, and dances. In the late 90's or early 2000's my neighbor murdered his wife and burned her and the house to the ground. He later fled the country with the children. I testified against Mr. Riner at trial. The prosecutor told me it was unlikely they would have secured a conviction without my testimony. My father was an abusive alcoholic. Although most of his abuse was verbal he did smack my mother on a couple of occasions. I still have clear memories of being a child and promising myself that when I was older I would stop his abuse. I injured my neck which led to a dependence on pain medication. My mother finally left my father and I got married and started a family. I hated being dependant on pain pills so I took methadone for years while trying to stop. I was a very good husband and father until 2013 when I first experimented with Bath salts.

I only used occasionally that first year and my wife didn't use at all. My mother had moved in with me until my father died in December 2012 at that point she moved directly behind me and my son would go between our homes as he wanted staying with both of us. My mother moved in October 2013 and my real problem began not long after. My son missed her and stayed there frequently. My co-defendant Mr. Grear moved in where my mother lived in January 2014. In February of 2014 I placed my first order for Bath Salts. Shortly after it arrived Mr. Grear was arrested. In March my wife and I stayed with my mother for the next 6-8 weeks so we could all be together as my son wanted. My wife had not begun using at this time. During my time there a DEA agent came and said he had been trying to find me. He asked about my experience with a local Dr. When I told him he asked if I would testify before a Grand Jury about this. I did later that summer.

Sometime late April or early May my wife and I returned home, at this point we both began using. My son was staying with my mother, as he did all during my involvement with this. The next 4 months comprise the snapshot presented to this court. I was arrested in September 2014 and spent 40 days in jail before being granted bond. It was a real wake up. While there I found out my wife was pregnant. I spent nearly 9 months on Home electronic monitoring. Finally in the beginning of August 2015 I resolved the possession of the suboxone pill and thought all my legal trouble was behind me and I could begin rebuilding my life. Unfortunately my behavior from 2014 came back to get me, and I was Indicted and then arrested September 14, 2015. I spent the next 14 months on pre-trial supervision before self-surrendering to prison November 16, 2016.

I feel that to characterize me as being unable to follow the rules when only

Looking at a snapshot of my life is fair
but if you look at my entire life
I have nearly always followed the
rules. This is my first experience with
the legal system and I have learned
a hard lesson. My wife and children
need me and my mother needs me.
My wife has learned from our mistakes
and has worked hard providing for our
children the last 4 years. When given
the opportunity I will do the same.
I do not see how anyone can argue
I would be a danger to the public.
As to sentencing disparity I have many
co-defendants already released. One of
whos guidelines were in excess of mine.
The real disparity would be if I were
to catch this virus in prison and it
leads to my death. I don't know if that
will happen even if I do catch it but
I don't know that it won't. I know
I have done a lot more good than
bad in my life and that should count.

Inmate Name: GROSS, WESLEY DAVID
Date of Birth: 09/17/1975
Encounter Date: 05/09/2019 07:31

Sex: M Race: WHITE
Provider: Amezcua, Jody L. RN

Reg #: 19188-084
Facility: CUM
Unit: G03

ROS:

OBJECTIVE:

Temperature:

<u>Date</u>	<u>Time</u>	<u>Fahrenheit</u>	<u>Celsius</u>	<u>Location</u>	<u>Provider</u>
05/08/2019	15:46 CUM	98.8	37.1	Temporal	Gera, Tom PA-C

Pulse:

<u>Date</u>	<u>Time</u>	<u>Rate Per Minute</u>	<u>Location</u>	<u>Rhythm</u>	<u>Provider</u>
05/08/2019	15:46	81			Gera, Tom PA-C

Blood Pressure:

<u>Date</u>	<u>Time</u>	<u>Value</u>	<u>Location</u>	<u>Position</u>	<u>Cuff Size</u>	<u>Provider</u>
05/08/2019	15:46 CUM	107/70				Gera, Tom PA-C

Wright Peak Flow:

<u>Date</u>	<u>Time</u>	<u>Attempt 1</u>	<u>Attempt 2</u>	<u>Attempt 3</u>	<u>Effort</u>	<u>Bronchodilator</u>	<u>Provider</u>
05/08/2019	15:46 CUM	410	540	500	Fair	Without	Gera, Tom PA-C

SaO2:

<u>Date</u>	<u>Time</u>	<u>Value(%)</u>	<u>Air</u>	<u>Provider</u>
05/08/2019	15:46 CUM	97		Gera, Tom PA-C

Weight:

<u>Date</u>	<u>Time</u>	<u>Lbs</u>	<u>Kg</u>	<u>Waist Circum.</u>	<u>Provider</u>
05/08/2019	15:46 CUM	156.0	70.8		Gera, Tom PA-C

Exam:

Mouth

General

No: Lesions

Exam Comments

43 y.o. WM with hx Asthma and Hepatitis C. Received Hep C treatment 1/1/19 - 2/25/19.

Denies family hx of Colon Cancer.

States family hx of elevated lipids = mother.

Lab work 2-5-18: Chol 162, TG 90, HDL 57, LDL 87, HgbA1c 5.5
ASCVD Score = 0.7%

Hepatitis A/B vaccination series started 5-8-19
Refused Pneumococcal vaccination

ASSESSMENT:

Preventive Health Visit

PLAN:

Schedule:

<u>Activity</u>	<u>Date Scheduled</u>	<u>Scheduled Provider</u>
Pneumovax 23 Immunization hx asthma	05/09/2019 00:00	Nurse 02



WELLMONT HEALTH SYSTEM
SERVICE AREA
1905 American Way
Kingsport TN 37660

19188-084 Pet
GROSS,WESLEY DAVID
MRN: 00824858
DOB: 9/17/1975, Sex: M
Enc. Date: 05/13/13

XR Chest 1 View [4082213] (continued)

Resulted: 05/14/13 0857, Result status: Final result

Resulting lab: EMC RAD

Narrative:

Exam Start 201305132235

Exam Stop 201305132245

HISTORY: Chest pain or 2-month. Raised red area on chest.

PORTABLE CHEST 05/13/2013 10:49 P.M.

Comparison with 08/27/2011. The lungs are free of infiltrates. Mild changes of chronic obstructive pulmonary disease. Heart and mediastinum are within normal limits.

CONCLUSION:

* Mild changes of chronic obstructive pulmonary disease.

Transcriptionist- SPEECHQ

Reading Physician- KATHLEEN A DEPONTE, M.D.

Releasing Physician- KATHLEEN A DEPONTE, M.D.

Released Date Time- 05/14/13 0857

Specimen Information

ID	Type	Source	Collected On
6578939			05/13/13 2235

Testing Performed By

Lab - Abbreviation	Name	Director	Address	Valid Date Range
9 - EMCRad	EMC RAD	Model Lab Director	5301 Tokay Blvd. Madison WI 53711	01/24/07 1652 - Present

Order

CT Angiogram Chest Without and With Contrast [IMG206] (Order 4082214)

CT Angiogram Chest Without and With Contrast [4082214]

Electronically signed by: Interface, Rad Conversion on 05/13/13
2355

Status: Completed

Ordering user: Interface, Rad Conversion 05/13/13 2355 Authorized by: Tunga T Reddy, MD
Frequency: 05/13/13 2355 -

Result

CT Angiogram Chest Without and With Contrast (Order 4082214)

CT Angiogram Chest Without and With Contrast [4082214]

Resulted: 05/14/13 2100, Result status: Final result

Resulting lab: EMC RAD

Narrative:

Exam Start 201305132355

Exam Stop 201305140010

HISTORY: Chest pain in the center of the chest for several days.

E 4



WELLMONT HEALTH SYSTEM
SERVICE AREA
1905 American Way
Kingsport TN 37660

19188-D84Per
GROSS,WESLEY DAVID
MRN: 00824858
DOB: 9/17/1975, Sex: M
Enc. Date: 05/13/13

CT Angiogram Chest Without and With Contrast [4082214]
(continued)

Resulted: 05/14/13 2100, Result status: Final result

COMPUTERIZED TOMOGRAPHIC ANGIOGRAPHY OF THE THORAX-PE PROTOCOL:

Thin section helical images were obtained following IV contrast with standard PE protocol.

* The lung parenchyma shows mild centrilobular emphysema in the lung apices. A 4 millimeter noncalcified nodule anterior segment of the right upper lobe. Repeat CT is recommended in six months to one year. No pleural or pericardial effusions.

The pulmonary arteries are well opacified and show no evidence of emboli. No aortic dissection or aneurysm. No adenopathy is seen. Residual thymus. Upper abdominal contents are unremarkable.

Esophageal wall may show mild diffuse thickening, possibly esophagitis. Correlate clinically.

CONCLUSION:

1. No evidence of pulmonary embolism, aortic dissection or aneurysm. A 4 to 5 millimeter noncalcified right upper lobe pulmonary nodule, indeterminate. Repeat CT is recommended in six months to one year.

2. Suspect esophagitis.

The study had been sent to a nighthawk service just following the exam with similar findings reported.

Transcriptionist- ELIZABETH I HOBACK, Transcriber

Reading Physician- KATHLEEN A DEPONTE, M.D.

Releasing Physician- KATHLEEN A DEPONTE, M.D.

Released Date Time- 05/14/13 2100

Specimen Information

ID	Type	Source	Collected On
6578977			05/13/13 2355

Testing Performed By

Lab - Abbreviation	Name	Director	Address	Valid Date Range
9 - EMCRad	EMC RAD	Model Lab Director	5301 Tokay Blvd. Madison WI 53711	01/24/07 1652 - Present

END OF REPORT

I apologize for the length and scope of this reply. Some of it I've wanted to get off my chest for a long time. I also thank his honor for the Courts time and consideration.

Respectfully
Wesley Gross

Case Number: 2:15-CR-15